IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 29 -11-2006

CORAM

THE HONOURABLE MR.JUSTICE M.E.N.PATRUDU

WRIT PETITION Nos.13341 OF 2004 & 6919 OF 2006

W.P.No.13341 OF 2004 :

Madurai Sarkarai Alai Karumbu
Urpathiyalargal Sangam,
rep.by its Secretary,
Reg.No.153/85,
Pondiyarajapuram - 625 209,
Madurai District. ... Petitioner

-vs-

1.The Secretary to Government,
Industries Department,
Fort St.George,
Chennai -600 009.

2.The Director of Sugar And Commissioner,
Tamil Nadu Sugar Corporation,
690, Periyar Buildings,
Nandanam,
Chennai - 600 035.

3.The Special Offider,
Madura Sugar Mills,
Pondiyarajapuram-625 209,
Madurai District.

4.Tamil Nadu Karumbu Vyvasayigal Sangam
(Reg.No.19/88),
rep.by its General Secretary,
No.46-A, V.O.C.Street,
Kasthuribai Nagar,
Tambaram West,
Chennai - 600 045.

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5.Rajshree Sugars & Chemicals Ltd.,
rep.by its Director and Chief Operating Officer,
338, Avinashi Road,
Peelamedu,
Coimbatore-641 004. ... Respondents

(Respondents 4 impleaded
as per orders of this Court
dated 31.03.2006 made in WPMP NO. 8840/06
R5 Impleaded as per order dated 27.07.2006
made in WPMP NO. 17048/06 in WP 13341/04

W.P.No.6919 OF 2006 :

Tamil Nadu Karumbu Vyvasayigal Sangam
(Reg.No.19/88),
rep.by its General Secretary,
No.46-A, V.O.C.Street,
Kasthuribai Nagar,
Tambaram West,
Chennai - 600 045. ... Petitioner

-vs-

1.The Secretary to Government,
Industries Department,
Fort St.George,
Chennai - 600 009.

2.The Director of Sugar and Cane Commissioner,
Director of Sugar,
No.690, Periyar Buildings,
Nandanam,
Chennai - 600 035.

3.The Special Officer,
Madura Sugar Mills,
Pandiyarajapuram - 625 209,
Madurai District.

4.The Special Officer,
The National Cooperative Sugar Mills Ltd.,
A-2731, Alanganallur (via),
Madurai District - 625 502.

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5.M/s.Rajeswari Sugars and Chemicals Ltd.,
rep.by its Managing Director,
Varadaraj Nagar Post,
Periakulam Taluk,
Theni District - 635 562.

6.Madurai Sarkarai Alai Karumbu
Urpathiyalargal Sangam,
rep.by its Secretary,
Reg.No.153/85,
Pondiyarajapuram - 625 209,
Madurai District. ... Respondents

Petitions under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus calling for the records of the 2nd Respondents relating to his order in his proceedings R.C. NO. 4479/Cane.1/2004 dated 06.04.2004 and quash the same and consequently direct the respondents 1st and 2nd Respondents to re-allot the reserved area of 3rd Respondent mill to the other private sugar mills in close proximity like Rajshree Sugars and Chemicals Ltd., Vaigai Dam. and EID Parry (India) Ltd. Pugalur, in accordance with the Taluks as mentioned in Para 13 above till the 3rd Respondents mill is revived either by the respondents or by the private management in the future in terms of the Clause 6(1) (f) of the order 1966 (WP N O. 13341 of 2004)

2) To call for the records of the 2nd Respondent bearing reference No. RC NO. 1518/Cane - 1/05 dated 07.02.2005 and the notification RC NO. 1518/Cane - 1/05 dated -/2/2005 and quash the same is illegal arbitrary and without jurisdiction and consequently direct the respondents 1 and 2 to re-allot the reserved area of the 3rd Respondent to the 4th respondent or any other near by co-operative sugar Mills. (WP NO. 6919/06)

For petitioner in W.P.No.13341/2004 : Mr.R.Kannan
For petitioner in W.P.No.6919/2006 : Mr.N.G.R.Prasad
for M/s.Row & Reddy

For respondents 1 and 2 in W.P.No.13341/2004 &
respondents 1 to 3 in W.P.No.6919/2006 :
Mrs.C.K.Vishnu Priya,
Govt.Advocate.
For R3 Mr. P.S. Sivashanmugasundaram in WP 13341/04

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For respondent 4 in W.P.No.13341/2004 :
Mr.N.G.R.Prasad for M/s. Row and Reddy

For respondent 5 in both W.Ps.:Mr.B.Rajendran

For respondent 6 in W.P.No.6919/2006 :
Mr.Veerakathiravan
For R4 Mr. Janakiramulu in WP NO. 6919/06

COMMON ORDER

Sugar is sweet, but now and then, it is sour, more so, to a diabetic. We do not know whether ants are affected with any sugar disease, but the known fact is that men are addicted, attracted and affected to the power of sugar. So, care is necessary, while dealing with sugar.

2. To promote sugar and protect the welfare of the producer of the sugarcane, cane grower and the miller, every care is essential.

3. With the total commitment and assistance from the learned counsel appearing from both sides in the writs, the Court is hoping that the dream of sugarcane cultivators will fructify and the country will develop.

4. The short but very important point in these two Writ Petitions depends upon the livelihood of the sugarcane farmers.

5. At request of both sides, both the Writ Petitions are heard together and they are being disposed of finally in the interest of cultivators of sugarcane.

6. The few facts necessary for disposal of these Writ Petitions are Madura Sugar Mills was established and the agriculturists and the sugarcane growers near the factory are supplying their products. Madurai Sugar Mills started running smoothly all the years since 1984, but somehow it went into huge loss, resulting in the closure of the mill. The said mill is under the total control and finance of the State Government. Since the said mill is closed, the sugarcane growers faced undue hardship. Therefore, the State has regulated the supply of sugarcane as per the Sugarcane (Control) Order 1966, hereinafter referred to as Order.

7. It would be relevant to refer the power of the

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Government to regulate distribution and movement of sugarcane. It is as follows :

"6. POWER TO REGULATE DISTRIBUTION AND MOVEMENT OF SUGARCANE.

(1) The Central Government may, by order notify in the official Gazette.

(a) reserve any area where sugarcane is grown hereinafter in this clause referred to as "reserved area" for a factory having regard to the crushing capacity of the factory, the availability of sugarcane in the reserved area and the need for production of sugar with a view to enabling the factory to purchase the quantity of sugarcane required by it;

(b) determine the quantity of sugarcane a factory will require for crushing during any year;

(c) fix, with respect to any specified sugarcane grower or sugarcane growers generally in a reserved area, the quantity or percentage of sugarcane grown by such power or growers, as the case may, which each such grower by himself, or if he is a member of co-operative society of sugarcane growers operating in the reserved area, through such such society, shall supply to the factory concerned ;

(d) direct a sugarcane grower or a sugarcane growers' co-operative society, supplying sugarcane to a factory, and the factory concerned to enter into an agreement to supply or purchase, as the case may be, the quantity of sugarcane fixed under paragraph (c) ;

(e) direct that no gur (jaggery) or khandsari sugar or sugar shall be manufactured from sugarcane except under and in accordance with the conditions specified in the licences issued in this behalf ;

(f) prohibit or restrict or otherwise regulate the export of sugarcane from any area (including a reserved area) except under and

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in accordance with a permit issued in this behalf.

(2) Every sugarcane grower, sugarcane growers' co-operative society and factory, to whom or to which an order made under paragraph (c) of sub-clause (1) applies, shall be bound to supply or purchase, as the case may be, that quantity of sugarcane covered by the agreement entered into under the paragraph and any willful failure on the part of the sugarcane growers' co-operative society or the factory to do so, shall constitute a breach of the provisions of the order.

Provided, that where the default committed by any Sugarcane Growers' Co-operative Society is due to any failure on the part of any sugarcane grower, being a member of such society, such society shall not be bound to make supplies of sugarcane to the factory to the extent of such default."

8. By exercising its power, the State directed the agriculturists to supply sugarcane to The National Co-operative Sugar Mill Limited, whichis a Co-operative Sugar Mill under the control of the State. It appears there was a problem with regard to the administration of the said Co-operative Sugar Mill and thereby the Director of Sugar and Cane Commissioner issued an order directing the agriculturists to supply sugarcane to M/s.Rajeswari Sugars and Chemicals Limited. Accordingly, the cane growers are supplying sugarcane to the said Rajeswari Sugars and Chemicals Limited, which is a private sugar mill.

9. While so, the two unions represented by their respective General Secretaries are before this Court by way of writs fighting for the pretext of welfare of the sugarcane growers.

10. Without going into the merits and demerits of their disputes and without going into the facts and circumstances of the case and also as consented by all parties during the course of arguments, keeping the welfare of the cultivators of sugarcane as highlighted by the learned counsel appearing for the petitioners in both the writs and as rightly supported by the learned Government Pleader, this Court is disposing of both the Writ

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Petitions, by giving the following directions :

The Delimitation Committee and the Government to be headed by the Secretary to Government, Food and Agriculture, and the Secretary, Industries Department, are directed to identify a sugar mill nearer to the fields of various cane growers and allot the said mill for supply of sugarcane by the farmers. While identifying the mill, both the Secretaries as well as all the Government Officials, who are in Delimitation Committee, have to note that the said sugar mill must preferably be a public sector mill either owned by the Government or by its Co-operative Societies. If there is no such mill, then, preference should be given to a private owner, who is running the mill strictly in accordance with the provisions of the Sugarcane (Control) Order. In addition, the officials have to fix a reasonable rate and the sugarcane growers, who are exporting sugarcane under clause (6) (1) (f) of Sugarcane (Control) Order, 1966, must receive the best price per MT and it should be in tune with the price fixed by the State and also direct the said sugarcane mill to pay to the sugarcane growers immediately, as the farmer is the backbone of the State. It is clarified that if the public sector mills should have preference over private mills and only when the public sector mills and co-operative mills are not functioning in and around the locality, then only the case of private mills must be considered by the committee. The Committee, headed by both the Secretaries, i.e., Secretary to Government, Industries Department, and Secretary to Government, Food & Agriculture Department, is directed to convene a meeting expeditiously within a week and take an immediate decision, as it is reported to the Court that the sugarcane growers are eagerly waiting for a suitable direction to supply their sugarcane to the mill identified by the State in this season itself.

Registry is directed to communicate a copy of this order immediately to the Secretary, Industries Department, first respondent, and also to the Secretary, Food & Agriculture Department, and furnish a free copy to the learned Government Pleader and also to the learned counsel appearing for the writ petitioners.

11. With the above observation, these Writ Petitions are disposed of. Parties shall bear their own costs. Consequently, the connected W.P.M.P.Nos.15619, 15620 of 2004, 41187 of 2005, 8840, 7500, 7501 and 12593 of 2006 and W.V.M.P.Nos.2120 of 2004 and 333 of 2006 are closed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

To

1.The Secretary to Government,
Industries Department,
Fort St.George,
Chennai -600 009.

2.The Director of Sugar And Commissioner,
Tamil Nadu Sugar Corporation,
690, Periyar Buildings,
Nandanam,
Chennai – 600 035.

3. The Secretary,
Food and Agriculture Department,
Fort Saint George, Chennai - 4

Copy to:
1. Mr. R. Kannan, Counsel for the petitioner in WP 13341/04
2. Mr. N.G.R. Prasad Counsel for the petitioner in WP NO. 6919/06

+ 2 ccs to the Government Pleader sr nos. 58600 and 58601

JE(CO)
NM(29.11.2006)

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6919 OF 2006

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